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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,	Case No. 3:16-cr-00051-MMD-WGC
Plaintiff,	ORDER
v.	
ANTONIO MOGROS,	
Defendant.	


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In *United States v. Sanchez-Gomez*, the Ninth Circuit Court of Appeals found that “[b]efore a presumptively innocent defendant may be shackled, the court must make an individualized decision that a compelling government purpose would be served and that shackles are the least restrictive means for maintaining security and order in the courtroom.” *United States v. Sanchez-Gomez*, \_\_ F.3d \_\_, 2017 WL 2346995 at \*9 (9th Cir. May 31, 2017). The court reasoned that this right “respects our foundational principle that defendants are innocent until proven guilty.” *Id.* Defendant relied on *Sanchez-Gomez* in filing his "Notice of Assertion of Right to be Present in Court Unshackled" ("Notice"). (ECF No. 79.) However, the Ninth Circuit has stayed the issuance of the mandate in *Sanchez-Gomez*. See *United States v. Sanchez-Gomez*, No. 13-50561 (9th Cir. filed June 16, 2017) (order granting motion to stay issuance of the mandate). The Court nevertheless agrees with the Ninth Circuit’s reasoning and will implement Sanchez-Gomez’s direction to courts to “decide whether the stated need for security outweighs the infringement on a defendant’s right.” *Id.* at \*13. A minute order will follow on whether

1 Defendant will be placed in restraint during the sentencing hearing scheduled for June  
2 29, 2017.

3 The government's motion to strike the Notice (ECF No. 80) is denied. Requiring  
4 Defendant to file a motion to be presented in court unshackled would place the burden  
5 on a defendant to establish that he should not be shackled and would effectively disregard  
6 an individual's constitutional "right to be free from unwarranted restraints." See *id* at \*8.  
7 However, the Court finds that the Notice goes too far in telling this Court what it "must" do  
8 under *Sanchez-Gomez*.

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10 DATED THIS 28<sup>th</sup> day of June 2017.

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13 MIRANDA M. DU  
14 UNITED STATES DISTRICT JUDGE  
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